

Senate Bill 316

By: Senators Thomas of the 54th and Harbison of the 15th

**AS PASSED**

**A BILL TO BE ENTITLED**

**AN ACT**

To amend Chapter 43 of Title 33 of the Official Code of Georgia Annotated, relating to medicare supplement insurance, so as to require insurers who offer medicare supplemental insurance policies in this state to make available supplemental policies to persons under the age of 65 who qualify for medicare due to disability or end-stage renal disease; to provide for time frames when persons may enroll in a medicare supplement insurance policy; to provide for payment by third parties; to provide for limitations on differences in premiums charged to different applicants; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

**SECTION 1.**

Chapter 43 of Title 33 of the Official Code of Georgia Annotated, relating to medicare supplemental insurance, is amended by revising Code Section 33-43-3, relating to duplicate benefits prohibited and establishment of standards, as follows:

"33-43-3.

(a) No medicare supplement insurance policy or certificate in force in this state shall contain benefits which duplicate benefits provided by medicare.

(b) Notwithstanding any other provision of Georgia law, a medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(c) The Commissioner shall adopt reasonable regulations to establish specific standards for policy provisions of medicare supplement policies and certificates. Such standards shall be in addition to and in accordance with applicable laws of this state. No requirement of this title relating to minimum required policy benefits, other than the minimum standards

contained in this chapter, shall apply to medicare supplement policies and certificates. The standards ~~may~~ shall cover, but shall not be limited to:

- (1) Terms of renewability;
- (2) Initial and subsequent conditions of eligibility;
- (3) Nonduplication of coverage;
- (4) Probationary periods;
- (5) Benefit limitations, exceptions, and reductions;
- (6) Elimination periods;
- (7) Requirements for replacement;
- (8) Recurrent conditions; and
- (9) Definitions of terms.

(d) The Commissioner shall adopt reasonable regulations to establish minimum standards for benefits, claims payment, marketing practices, compensation arrangements, and reporting practices for medicare supplement policies and certificates.

(e) The Commissioner may adopt from time to time such reasonable regulations as are necessary to conform medicare supplement policies and certificates to the requirements of federal law and regulations promulgated thereunder, including, but not limited to:

- (1) Requiring refunds or credits if the policies or certificates do not meet loss ratio requirements;
- (2) Establishing a uniform methodology for calculating and reporting loss ratios;
- (3) Assuring public access to policies, premiums, and loss ratio information of issuers of medicare supplement insurance;
- (4) Establishing a process for approving or disapproving policy forms, certificate forms, and proposed premium increases;
- (5) Establishing a policy for holding public hearings prior to approval of premium increases; and
- (6) Establishing standards for medicare select policies and certificates.

(f) The Commissioner may adopt reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the Commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed to be insured under a medicare supplement policy or certificate.

(g) Insurers offering medicare supplement policies in this state to persons 65 years of age or older shall also offer medicare supplement policies to persons in this state who are eligible for and enrolled in medicare by reason of disability or end-stage renal disease. Except as otherwise provided in this Code section, all benefits, protections, policies, and procedures that apply to persons 65 years of age or older shall also apply to persons that are eligible for and enrolled in medicare by reason of disability or end-stage renal disease.

(h) Persons may enroll in a medicare supplement policy at any time authorized or required by the federal government, or within six months of:

(1) Enrolling in medicare Part B, or by May 1, 2011, for an individual who is under 65 years of age and is eligible for medicare because of disability or end-stage renal disease, whichever is later;

(2) Receiving notice that such person has been retroactively enrolled in medicare Part B due to a retroactive eligibility decision made by the Social Security Administration; or

(3) Experiencing a qualifying event identified in regulations adopted pursuant to subsection (c) of this Code section.

(i) No policy or certificate issued pursuant to this chapter shall prohibit payment made by third parties on behalf of individual applicants or individuals within a group applicant so long as:

(1) The third party is an immediate family member of a person lawfully exercising an in-force power of attorney or legal guardianship; or

(2) The third party is a nonprofit, charitable organization that:

(A) Is the named requestor of an advisory opinion issued by the United States Department of Health and Human Services (HHS) Office of Inspector General under the requirements of 42 C.F.R. Part 1008; and

(B) Provides, upon request by the medicare supplement issuer, the specific advisory opinion relied upon by the third party to make such payment and a written certification that the advisory opinion is in full force and effect and has not been rescinded, modified, or terminated by the United States Department of Health and Human Services (HHS) Office of Inspector General.

(j) Premiums for medicare supplemental insurance policies may differ between persons who qualify for medicare who are 65 years of age or older and those who qualify for medicare who are younger than 65 years of age; provided, however, that such differences in premiums shall not be excessive, inadequate, or unfairly discriminatory and shall be based on sound actuarial principles and reasonable in relation to the benefits provided."

## **SECTION 2.**

This Act shall become effective on November 1, 2010.

## **SECTION 3.**

All laws and parts of laws in conflict with this Act are repealed.